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In re Application of	:	DECISION ON PETITION
John M. Shamoun, Dr.	:	TO WITHDRAW
Serial No. : 10/039,066	:	HOLDING OF
Filed : January 4, 2002	:	ABANDONMENT
For : Cosmetic Surgery Preview System	:	

This is a decision on a request filed September 7, 2004 by applicant's former representatives, to review the holding of abandonment mailed August 23, 2004, for failure to file a proper response to the Office action mailed January 21, 2004. There is no fee required for this petition.

On January 21, 2004 a final rejection was mailed to applicant setting forth a three-month period for reply. Applicant was also reminded that under no circumstances would a reply be considered timely if filed after six months from the mailing date of the final rejection. That is a proper reply needed to be filed on or before July 21, 2004. On May 18, 2004, a reply was received with a one-month extension of time request. On July 26, 2004, an Advisory action was mailed to applicant indicating that the previously filed amendment failed to place the application in condition for allowance and therefore, would not be entered. Applicant was also informed that unless a proper reply to the final rejection under 37 CFR 1.113 was filed, listing "a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114" as one of the choices, the application would become abandoned. On August 20, 2004, applicant filed a Request for Continued Examination (RCE). As the RCE was filed more than six months after the mailing of the final rejection, it is not deemed to have been timely filed and the holding of abandonment for failure to file a timely response to the final rejection is proper and the request to withdraw the holding of abandonment is denied.

Any request for consideration of this decision should be submitted within TWO (2) MONTHS from the mailing date of this decision. The reconsideration request should include a cover letter titled "Renewed Petition Under 37 CFR 1.181". Telephone inquiries regarding this decision should be directed to Special Programs Examiner Andres Kashnikow at (571) 272-4361.

Applicant is also advised that abandonment of this application may also be overcome by means of a Petition to Revive under 37 CFR 1.137. Such a petition may follow either of two different paths, depending upon whether the failure to properly respond to the final rejection within the time period set was unavoidable (37 CFR 1.137(a)), or whether it was unintentional (37 CFR 1.137(b)). See section 711.03(c) of the Manual of Patent Examining Procedure.

Summary: Request to Withdraw Holding of Abandonment Denied.

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